

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 335

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H.P. 239

House of Representatives, February 8, 2021

**An Act To Clarify Requirements for Criminal History Record  
Checks Pursuant to the Federal Family First Prevention Services  
Act**

(EMERGENCY)

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Received by the Clerk of the House on February 4, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

Presented by Representative MADIGAN of Waterville.

1           **Emergency preamble.** Whereas, acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** amendment of the Maine Revised Statutes, Title 22, section 8110 is  
4 required in order to conform to the federal Family First Prevention Services Act in 2021;

5           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
6 the meaning of the Constitution of Maine and require the following legislation as  
7 immediately necessary for the preservation of the public peace, health and safety; now,  
8 therefore,

9           **Be it enacted by the People of the State of Maine as follows:**

10           **Sec. 1. 22 MRSA §8110,** as enacted by PL 2019, c. 399, §1, is amended by  
11 amending the section headnote to read:

12           **§8110. Criminal history record checks for employees of children's residential care**  
13           **facilities, emergency children's shelters, shelters for homeless children and**  
14           **any group home that provides care for children**

15           **Sec. 2. 22 MRSA §8110, sub-§2,** as enacted by PL 2019, c. 399, §1, is amended to  
16 read:

17           **2. Criminal history; information about criminal records and data obtained.** The  
18 department shall obtain, in print or electronic format, criminal history record information  
19 containing a record of public criminal history record information as defined in Title 16,  
20 section 703, subsection 8, from the Maine Criminal Justice Information System, established  
21 pursuant to Title 16, section 631, and the Federal Bureau of Investigation, for any staff  
22 member of a children's residential care facility, an emergency children's shelter, a shelter  
23 for homeless children or any group home that provides care for children in order to comply  
24 with the federal ~~family first prevention services legislation~~ Family First Prevention  
25 Services Act. For purposes of this section, "staff member" means an individual who is  
26 employed by, or has applied for and may be offered employment at, a children's residential  
27 care facility, an emergency children's shelter, a shelter for homeless children or any group  
28 home that provides care for children, including a contract employee or self-employed  
29 individual, whether or not the individual has direct contact with children. "Staff member"  
30 does not include a contractor performing maintenance or repairs at the children's residential  
31 care facility, emergency children's shelter, shelter for homeless children or group home that  
32 provides care for children who does not have unsupervised access to children at the facility,  
33 shelter or group home.

34           **Sec. 3. 22 MRSA §8110, sub-§3,** as enacted by PL 2019, c. 399, §1, is amended to  
35 read:

36           **3. Fingerprint-based criminal history obtained.** A staff member shall consent to  
37 and have the staff member's fingerprints taken. The State Police shall take or cause to be  
38 taken the fingerprints of a staff member who has consented under this subsection and shall  
39 forward the fingerprints to the Department of Public Safety so that the Department of Public  
40 Safety may conduct a state and national criminal history record check on the person. The  
41 Department of Public Safety shall forward the results obtained to the department. The State  
42 Police shall assess a fee set annually by the Department of Public Safety to be paid by the  
43 children's residential care facility, emergency children's shelter, shelter for homeless

1 children or group home that provides care for children or the staff member for each criminal  
2 history record check required to be performed under this section. Except for the portion of  
3 the payment that constitutes the processing fee charged by the Federal Bureau of  
4 Investigation, all money received by the State Police under this subsection must be paid to  
5 the Treasurer of State, who shall apply the money to the expenses of administration of this  
6 section by the Department of Public Safety.

7 **Emergency clause.** In view of the emergency cited in the preamble, this legislation  
8 takes effect when approved.

#### 9 **SUMMARY**

10 The federal Family First Prevention Services Act requires fingerprint-based  
11 background checks of staff of any "child-care institution, including a group home,  
12 residential treatment center, shelter, or other congregate care setting." Current Maine law  
13 requiring these background checks references residential care facilities. This bill amends  
14 the law to conform to the federal law, providing that the background check requirements  
15 apply to emergency children's shelters, shelters for homeless children and any group home  
16 that provides care for children.